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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Review of the Commission's  
Regulations Governing Attribution  
of Broadcast Interests

MM Docket No. 94-150

Review of the Commission's  
Regulations and Policies  
Affecting Investment  
in the Broadcast Industry

MM Docket No. 92-51

Reexamination of the Commission's  
Cross-Interest Policy

MM Docket No. 87-154

REPLY COMMENTS

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EZ Communications, Inc. ("EZ") hereby submits its reply comments in the above-captioned proceeding.

In its initial comments in this proceeding, filed on May 17, 1995, EZ urged the Commission to retain the single majority shareholder exemption to the multiple ownership rules and to abolish the cross-interest policy insofar as it applies to non-attributable equity interests. Further, EZ urged that any changes to the attribution rules and exemptions that the Commission may make should be prospective in nature, allowing existing interests to be grandfathered.

In the almost thirty other sets of comments filed in this proceeding, retention of the single majority shareholder exemption received overwhelming support. Many of the commenting

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parties supplied specific examples of how the availability of the exemption has enabled minorities and other new industry entrants to attract investors and establish viable communications businesses.

Only one party, AFLAC Broadcast Group, Inc. ("AFLAC"), urged elimination of the single majority shareholder exemption based, it said, on concerns that a minority shareholder may have the "potential" to "influence" a licensee's operations.<sup>1</sup> In support, AFLAC cited several deals in which it alleged that the minority shareholder retained such potential. AFLAC's brief allusions are nothing more than speculation of possible influence. Its brief examples, which fall far short of documenting any instances of assumption of actual control, in no way support elimination of the single majority shareholder exemption, particularly when consideration is given to other commenting parties' citation of instances in which availability of the exemption has helped advance various different public interest concerns.

As EZ said in its initial comments, in those few instances in the past when the FCC has been asked to evaluate the bona fides of an asserted claim to the single majority shareholder exemption, the agency has turned to its well-established experience and body of cases evaluating transfers of control under Section 310(d) of the Communications Act. Section 310(d)

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<sup>1</sup> "Consolidated Comments of AFLAC Broadcast Group, Inc." filed May 17, 1995 ("AFLAC Comments"), at 17.

case law provides adequate guidance for any abuses that may occur. Given the complete lack in this record of any serious pattern of abuse of the exemption, eliminating or restricting it is factually and legally unsupportable.

AFLAC and one other party, Capital Cities/ABC, Inc., suggest tests for evaluating improper "influence" that may result from ownership interests that might otherwise be permissible under the Commission's attribution standards.<sup>2</sup> Both tests, however, are based on application of standards drawn from Section 310(d) case law, and adoption of either test would require ad hoc application of yet another set of relatively redundant factors, creating further uncertainty in the structuring of already complex deals.

Without exception, the commenting parties also supported abolition of the cross-interest policy, uniformly agreeing that the uncertainty that it creates frequently impedes transactions and discourages efficient capital formation. The policy is a historical anomaly that disrupts operation of the multiple ownership rules, and it should be abolished.

Finally, the vast majority of the commenting parties urged that any modification of the Commission's rules not apply to existing media interests. The other parties agreed with EZ that any changes in the rules should operate on a prospective basis only.

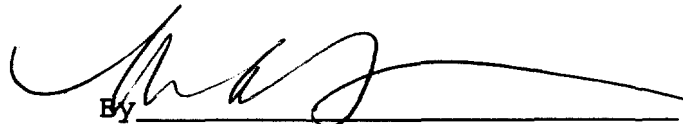
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<sup>2</sup> AFLAC Comments at 21-23; Comments of Capital Cities/ABC, Inc., filed May 16, 1995, at 15-17.

The record is devoid of any reason to curtail the single majority shareholder exemption. Similarly, based on the record in this proceeding, there is no justifiable reason for retaining the cross-interest policy. The Commission should act promptly to abolish the cross-interest policy.

Respectfully submitted,

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July 10, 1995

**CERTIFICATE OF SERVICE**

I, Susan J. Buchheit, a secretary in the law firm of Koteen & Naftalin, hereby certify that on the 10th day of July, 1995, a copy of the foregoing Reply Comments were deposited in the United States mail, first class postage prepaid, addressed to the following:

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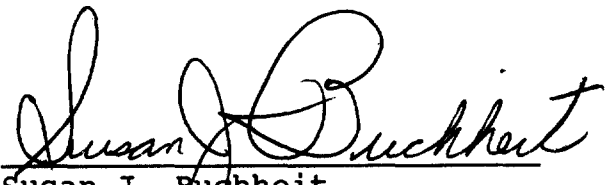
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